UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

UNITED STATES OF AMERICA	:	**CRIMINAL COMPLAINT**
v.	:	
BRISTOL-MYERS SQUIBB COMPANY	:	Mag No. 05- 6076

I, the undersigned complainant, being duly sworn, state the following is true and correct to the best of my knowledge and belief:

SEE ATTACHMENT A

I further state that I am an Inspector with the United States Postal Inspection Service, and that this complaint is based on the following facts:

SEE ATTACHMENT B

continued on the attached page and made a part hereof.

J. Kevin Manley
Inspector J. Kevin Manley
United States Postal Inspection Service

Sworn to before me and subscribed in my presence,

June 15 2005, at Newark, New Jersey

HONORABLE RONALD J. HEDGES
UNITED STATES MAGISTRATE JUDGE

Ronald J. Hedges
Signature of Judicial Officer

ATTACHMENT A

Conspiracy to Commit Securities Fraud

From at least on or about early 2000 through at least until on or about early 2002, in the District of New Jersey and elsewhere, the defendant BRISTOL-MYERS SQUIBB COMPANY did knowingly and wilfully combine, conspire, confederate, and agree with others to commit an offense against the United States, that is, to commit securities fraud, contrary to Title 15, United States Code, Sections 78j(b) and 78ff, and Title 17, Code of Federal Regulations, Section 240.10b-5, in violation of Title 18, United States Code, Section 371.

In furtherance of the conspiracy and to effect the unlawful objects thereof, defendant BRISTOL-MYERS SQUIBB COMPANY and its co-conspirators committed, and caused to be committed, the following overt acts in the District of New Jersey and elsewhere:

> During 2000 to 2001, defendant BRISTOL-MYERS SQUIBB COMPANY and its co-conspirators regularly used financial incentives to spur wholesalers to buy product in excess of prescription demand, in order to report artificially higher sales and earnings.
>
> In every quarter in 2000 and 2001, defendant BRISTOL-MYERS SQUIBB COMPANY publicly announced that it had met or exceeded analysts' consensus EPS estimates, but intentionally failed to disclose to the investing public that its success in meeting or exceeding analysts' consensus EPS estimates was due to channel stuffing and improper accounting measures.

ATTACHMENT B

I, J. Kevin Manley, am an Inspector with the United States Postal Inspection Service. I have participated in the investigation of this matter, and I am familiar with the information contained in this affidavit based on my own personal participation in the investigation, my review of various documents, records and reports, and my conversations with other individuals, including other law enforcement officers and representatives of the United States Securities and Exchange Commission. Because this affidavit is submitted for the limited purpose of establishing probable cause, I have not included herein the details of every aspect of the investigation. Where actions, conversations and statements of others are related herein, they are related in substance and in part, except where otherwise noted.

I am aware of the following facts:

Bristol-Myers Squibb Company

1. Bristol-Myers Squibb Company ("BMS" or the "Company") is a Delaware corporation with offices in New Jersey and one of the world's leading producers of pharmaceuticals and health care products. For 2000, BMS reported sales of $18.216 billion and net earnings of $4.711 billion. For 2001, BMS reported sales of $19.423 billion and net earnings of $5.245 billion. The great majority of BMS's sales and earnings in 2000 and 2001 were from sales of pharmaceutical products.

2. BMS is a publicly traded corporation, the common stock of which is listed on the New York Stock Exchange. BMS's shareholders are located throughout the United States, including in the District of New Jersey.

Wholesaler Sales & Channel Stuffing

3. BMS manufactures pharmaceutical products and distributes those products through wholesalers. In 2000 to 2001, four U.S. wholesalers handled the distribution of approximately 85% of BMS's U.S. pharmaceutical products. These wholesalers delivered BMS pharmaceutical products to thousands of independent pharmacies, retail chains, hospitals and other health care providers across the country. Wholesalers generally purchased product at least sufficient to meet the demand of these retail businesses.

4. In 2000 to 2001, BMS regularly used financial incentives to spur wholesalers to buy product in excess of prescription demand, so that BMS could report higher sales and earnings. This practice, which is commonly known as "channel stuffing," was also referred to as "sales acceleration" or "trade loading."

5. BMS used a variety of financial incentives to spur wholesalers to buy and hold additional product in excess of prescription demand. The financial incentives included:

(a) pre-price increase buy-ins - allowing wholesalers to purchase product in advance of a BMS price increase for the product;

(b) "extended datings" of invoices - extending the due date for the wholesaler's payment beyond the usual thirty days;

(c) additional early payment discounts - discounts beyond those customarily offered to wholesalers for paying early for product; and

(d) "future file" purchases - allowing wholesalers to buy at an old, lower price, even after a price increase had become effective.

Growth of Excess Inventory

6. Channel stuffing in 2000 to 2001 resulted in "excess inventory" at the wholesalers, because the wholesalers took on more inventory than the amount needed to meet anticipated demand. In the absence of sales incentives or investment purchases, a wholesaler's "normal" inventory level was generally in the approximate range of three weeks' to one month's supply of a mature prescription drug.

7. The process of reducing excess inventory to levels closer to normal was often called a "workdown," and generally involved selling less than demand during the workdown period. High levels of excess inventory were therefore likely to have an adverse effect on future sales.

Double-Double, Mega-Double and "Top Down" Budgeting

8. In 1994, BMS announced what became known as the "Double-Double" goal: to double BMS's sales, earnings and earnings per share ("EPS") in a seven year period. The Double-Double required average compound annual growth of approximately 10%. The last year of the Double-Double was 2000, and at the end of the year BMS announced that it had achieved the doubling of earnings and EPS, and that it "virtually" doubled its sales since 1993.

9. In September 2000 BMS announced the "Strategy for Growth," which incorporated what became known as the "Mega-Double" goal, a plan to double year-end 2000 sales and earnings by the end of 2005, a five-year period. Achievement of the Mega-Double required average compound annual growth of nearly 15%.

10. The Double-Double and Mega-Double goals were accompanied by what was known as a "top-down" budget process. BMS set aggressive sales and earnings budget targets for the Company and its business units, consistent with the Double-Double and Mega-Double goals.

Earnings Guidance and Estimates

11. The management of many public companies, including BMS, provided "guidance" to the investing public regarding the expected performance of the business, including EPS, for upcoming quarters and years. In 2000 and at least until December 13, 2001, BMS advised the investing public through its guidance that it expected performance consistent with the Double-Double and Mega-Double.

12. Relying in part on a company's guidance, professional securities analysts then made public their own estimates of the company's expected performance. These "earnings estimates" or "analyst expectations"--which when averaged were referred to as the "consensus estimates"--were closely followed by investors.

13. By 2000, BMS had met or exceeded analysts' consensus estimates for at least twenty-four (24) straight quarters, and this consistency was part of the company's public image. BMS understood that its failure to meet or exceed the consensus estimates for a quarter likely would result in a decrease in the company's stock price.

SEC Reporting

14. As a public company, BMS was required to comply with the rules and regulations of the United States Securities and Exchange Commission (SEC). The SEC is an independent agency of the United States government which was charged by law with maintaining honest and efficient markets in securities. The SEC's rules and regulations were designed to protect members of the investing public by, among other things, ensuring that a company's financial information was accurately disclosed to the investing public.

15. Under the SEC's rules and regulations, BMS and its officers were required to submit quarterly reports on Form 10-Q and annual reports on Form 10-K which included financial statements that accurately presented BMS's financial condition and the results of its business operations. Federal law further required the data in these reports to be truthful and consistent with the underlying facts and required the accounting treatments employed in these reports to be consistent with generally accepted accounting principles ("GAAP").

16. Federal law also required that the Forms 10-Q and 10-K include a section entitled Management's Discussion and Analysis ("MD&A") containing additional information about the company's financial condition and operations. MD&A must contain any material information necessary to make the accompanying financial statements not misleading. The purpose of MD&A was to give investors an opportunity to look at the company through the eyes of management, and understand the company's prospects for the future. MD&A is required to focus on material events and uncertainties known to

management that would cause reported financial information not to be necessarily indicative of future operating results or of future financial condition.

Press Releases and Conference Calls

17. After the end of each quarter, BMS made public announcements about its sales, earnings and business operations generally. The company issued press releases which described sales performance, overall and by product, and held conference calls for analysts regarding the performance of the business. In preparation for the conference calls, senior BMS executives met and discussed issues expected to arise and how to respond to those issues.

The Scheme to Defraud

"Making the Numbers"

18. BMS promoted a corporate culture in which meeting or exceeding company budget targets and the consensus estimates was considered mandatory. Achieving these goals was known as "making the numbers" or "hitting the numbers." Meeting internal BMS budget targets generally also resulted in sales and earnings that met or exceeded the consensus estimates.

19. To this end, BMS set aggressive internal sales and earnings targets for 2000, 2001 and earlier periods that would enable the company to hit the widely-touted Double-Double and Mega-Double goals. Every quarter, and at year-end, BMS pressured lower-level employees to meet their budget targets. Certain employees who suggested that the company's budget targets were too aggressive or expressed doubts that they could make the numbers were transferred or demoted.

20. In the late 1990s, BMS's use of channel stuffing and the accompanying build-up of excess inventory at the wholesalers caused concern among several BMS executives, and during 1999 the Company made some effort to reduce or slow the growth of excess inventory. At the end of 1999, however, senior management refused to accept a proposed BMS budget that would have missed the Double-Double goal, and reassigned the senior executive responsible for the budget proposal. No serious or systematic effort to work down inventory was adopted or undertaken by BMS during the period 2000 to 2001.

21. Throughout 2000 and 2001, BMS and its co-conspirators used channel stuffing to boost its sales and artificially inflate its earnings, which enabled BMS to make its numbers and report results consistent with the Double-Double and Mega-Double. BMS documents show that at the beginning of 2000 the estimated excess inventory at U.S. wholesalers was $139 million, and that by the end of 2001 the excess inventory at U.S. wholesalers had grown to as high as $1.95 billion.

22. This use of channel stuffing to boost sales and earnings, and the resulting steadily increasing levels of excess inventory at the wholesalers, was concealed from the investing public, and was not disclosed to the external auditors and Board of Directors. Without channel stuffing, BMS would have missed its budget targets and the consensus estimates.

Manipulation of Corporate Reserves

23. BMS regularly set aside funds in "reserve" accounts, to be used for costs related to events such as corporate acquisitions, divestitures or restructuring. Under GAAP, reserves were to be based on good-faith estimates of costs that were reasonably likely to occur. BMS was not permitted to establish reserves that were not based on good-faith estimates of reasonably likely future costs, or to carry excess amounts in its reserve accounts for future use. BMS was not permitted to use reserves to increase revenue in the future or for expenses not related to the purpose for which the funds were originally set aside.

24. BMS maintained a "reserve schedule" showing available funds from BMS's improperly-established reserves, as well as excess amounts from other reserves. BMS and its co-conspirators used funds from the reserve schedule for improper purposes, in particular to boost BMS revenue when the company needed additional income to hit the consensus estimates.

Deliberate Rebate Under-Accrual

25. BMS expected, at the time it sold its products, that at a later time it would have to pay rebates in connection with a portion of those sales. These rebates included Medicaid, "prime vendor" and "managed health care" rebates. Because BMS sold its products to wholesalers, there was a period of time -- a "lag"-- between the time of sale and when BMS received and paid the rebate claims. In keeping with GAAP, BMS was required to set aside funds to pay for expected rebates at the time it booked revenue from its sales.

26. As BMS's excess inventory at the wholesalers grew in 2000 and 2001, BMS and its co-conspirators imposed accounting policies and procedures which caused BMS not to accrue for the rebate liabilities for excess inventory. These policies were inconsistent with GAAP and resulted in an under-accrual in BMS's rebate accounts.

27. Throughout 2000 and 2001 BMS finance staff used an artificially low lag period of six months to estimate accrual balances, even as the excess inventory at the wholesalers grew steadily. By deviating from GAAP and intentionally under-accruing in the Medicaid rebate account, BMS and its co-conspirators hid the growth of excess inventory and made BMS's sales figures look stronger than they actually were.

Closing Budget Gaps Through Channel Stuffing and Improper Accounting

28. In 2000 and 2001, BMS often approached the end of a quarter with a gap between actual sales and earnings and the level of sales necessary to hit the company's budget targets. BMS and its co-conspirators used channel stuffing to make up the company's sales and earnings shortfalls and close the gap. This practice led to a steady increase in excess inventory at the wholesalers.

29. At various times during a quarter or at quarter-end, in order to supplement the revenue from channel stuffing activity, BMS and its co-conspirators used funds from improperly-established reserves to bolster income and enable BMS to hit its earnings targets and the consensus estimates.

30. In every quarter in 2000 and 2001, BMS publicly announced that it had met or exceeded the consensus estimates. BMS would not have been able to make its numbers without channel stuffing and improper accounting measures. BMS and its co-conspirators did not disclose to the investing public that its success in makings its numbers was due to channel stuffing and improper accounting measures.

False and Misleading Disclosure

31. In 2000 and 2001, BMS did not disclose the nature or extent of the company's channel stuffing in its 10Ks and 10Qs or in its quarterly press releases and analyst conference calls. For example, BMS and its co-conspirators did not disclose:

(a) the use of financial incentives to the wholesalers to generate sales in excess of demand;

(b) the use of sales in excess of demand to close budget gaps and hit budget targets;

(c) the level of excess inventory at the wholesalers; and

(d) the amount that excess inventory increased each quarter in 2000 and 2001.

32. Items (a) through (d) above constituted information reasonably likely to have a material effect on BMS's financial condition or results of its business operations. Failure to disclose this information deprived the investing public of information regarding BMS's past performance and future prospects. Further, in addition to omitting material information, BMS and its co-conspirators made or caused others to make or permitted false and misleading statements of material fact on the quarterly analyst conference calls and in the company's SEC filings.